

# ANIMALS (LOW-WELFARE ACTIVITIES ABROAD) BILL

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Animals (Low-Welfare Activities Abroad) Bill brought from the House of Commons on 20 March 2023 (HL Bill 122).

- These Explanatory Notes have been prepared by the Department for Environment, Food and Rural Affairs, with the consent of Lord Black of Brentwood, the Peer in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.



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## Overview of the Bill

1. The Animals (Low-Welfare Activities Abroad) Bill is a Private Members' Bill which prohibits the sale and the offering for sale, and the advertisement, in England and Northern Ireland, of low-welfare animal activities which take place abroad. Such activities include those where animals are kept in captivity or confinement, and/or have been subjected to unnecessary suffering or low-animal welfare practices that would not be permitted in England or Northern Ireland under relevant domestic animal welfare legislation.
2. The Bill itself does not directly apply any bans. Rather, it provides the framework under which regulations made by the appropriate national authority can apply the prohibitions on the sale and advertisement to specific activities which are described in those regulations.
3. The Bill contains purely domestic measures, aimed at reducing the visibility of specific low-welfare attractions to prospective tourists by limiting the sale and the advertisement of them in England and Northern Ireland.
4. This Bill was presented to Parliament by Angela Richardson MP on 20 June 2022, in the form of a Presentation Private Members' Bill.

## Policy background

5. The government published its Action Plan for Animal Welfare (APAW) in May 2021.<sup>1</sup> The Plan set out a range of legislative and non-legislative reforms to ensure that the welfare of all animals, whether farm, companion or wild animals, is set at the highest standards.
6. The APAW stated that “in line with setting a global example on animal welfare...we will legislate to ban the advertising and offering for sale here of specific, unacceptable practices abroad”.
7. The Bill will establish a framework in order to reduce the sale in England and Northern Ireland, and prevalence and visibility of advertisements to members of the public in England and Northern Ireland, of low-welfare activities abroad – thereby encouraging domestic tourists to make welfare-positive decisions about which activities to undertake when holidaying abroad.

## Legal background

8. There are currently no statutory provisions in England or Northern Ireland to regulate the advertising and sale of animal activities abroad.

## Territorial extent and application

9. Clause 7 sets out the territorial extent of this Bill, which describes the jurisdictions in which the Bill forms part of the law. The territorial extent of the Bill is England and Wales, and Northern Ireland.
10. See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom. The table also summarises the position regarding legislative consent motions.

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<sup>1</sup> Action Plan for Animal Welfare: <https://www.gov.uk/government/publications/action-plan-for-animal-welfare>

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# Commentary on provisions of Bill

## Clause 1: Prohibition on sale of low-welfare animal activities

11. Subsection (1) of this clause establishes that a person is guilty of an offence if, in a relevant part of the United Kingdom, that person sells, or offers or arranges to sell, any right to observe or participate in an activity which (a) involves an animal, (b) takes place outside the United Kingdom, and (c) is of a description specified for that part of the United Kingdom in regulations made by the appropriate national authority (“activity regulations”). The definition for “animal” is set out in clause 6 and is defined as a vertebrate other than a human. The definition of “relevant part of the United Kingdom” is also set out in clause 6 and is defined as England or Northern Ireland. References to “offering” to sell include making an invitation to treat.
12. Subsection (2) makes provision for an appropriate national authority to specify an activity as a ‘low-welfare’ animal activity in activity regulations. The definition for “appropriate national authority” is set out in clause 6. The appropriate national authority in relation to England is the Secretary of State. The appropriate authority in relation to Northern Ireland is the Department of Agriculture, Environment and Rural Affairs, or the Secretary of State acting with the consent of the Department.
13. Subsection (3) sets out the tests for assessing whether an activity is a ‘low-welfare’ animal activity. The definition of “appropriate national legislation” is set out in clause 6 and is, in relation to England, the Animal Welfare Act 2006; and in relation to Northern Ireland, the Welfare of Animals Act (Northern Ireland) 2011 (c. 16 (N.I.)).

## Clause 2: Prohibition on advertising of low-welfare animal activities

14. Subsection (1) of this clause describes when an advertisement would be considered a prohibited advertisement in a relevant part of the UK.
15. Subsection (2) establishes that a person commits an offence if, in the course of a business, the person publishes an advertisement, or causes an advertisement to be published, in a relevant part of the United Kingdom that is a prohibited advertisement in that part.
16. Subsection (3) establishes that a person commits an offence if, in the course of a business, the person prints in a relevant part of the United Kingdom an advertisement published in that part of the United Kingdom that is a prohibited advertisement in that part, or causes such an advertisement to be printed.
17. Subsection (4) establishes that a person commits an offence if, in the course of a business, the person distributes in a relevant part of the United Kingdom an advertisement published in that part of the United Kingdom that is a prohibited advertisement in that part or causes such an advertisement to be distributed.
18. Subsection (5) sets out that a person does not commit an offence under subsection (2) or (4) if the advertisement is contained in a publication which is printed outside a relevant part of the United Kingdom and whose principal market is not, or does not include, a relevant part of the United Kingdom (or part of one).
19. Subsection (6) sets out that a person does not commit an offence under subsection (4) where the distribution of the advertisement is by means of electronic transmission, and the person did not carry on business in a relevant part of the United Kingdom at the time of distribution.
20. Subsection (7) establishes that a person does not commit an offence under subsection (4) by selling a publication to a member of the public.

21. Subsection (8) sets out that it is a defence for a person charged with an offence under subsection (3) or (4) to prove that the person did not know, and had no reason to suspect, that the advertisement would be published in the relevant part of the United Kingdom.

### Clause 3: Offences: penalties, prosecution and liability

22. Subsection (1) of this clause sets out the relevant fines - including upper limits where applicable - for which a person who commits an offence under this Bill is liable to.
23. Subsection (2) establishes that section 127 of the Magistrates' Courts Act 1980 (limitation of time), and article 19 of the Magistrates' Courts (Northern Ireland) Order 1981 (time within which complaint charging offence must be made to give jurisdiction), do not apply in relation to offences under this Act. This means that the usual six-month time limit in which a prosecution for a summary offence must be brought will not apply. This will ensure that prosecutions are not time-barred in complex cases.
24. Subsection (3) sets out the provisions by which a person would commit an offence as well as a body corporate, where an offence under this Act is committed by a body corporate. In such a case, the person is liable to be proceeded against accordingly.
25. Subsection (4) sets out the definition for the term 'director' used in subsection (3).
26. Subsection (5) provides that subsection (3) also applies to a partnership or unincorporated body.

### Clause 4: Enforcement powers of local weights and measures authorities etc

27. Subsection (1) of this clause allows a local weights and measures authority in England and the Department for the Economy in Northern Ireland to enforce the provisions of this Bill.
28. Subsections (2) and (3) provide that the investigatory powers in Schedule 5 to the Consumer Rights Act 2015 (investigatory powers etc.) are available for the purpose of enforcing the provisions in the Bill.
29. Subsection (4) refers to the Schedule, where the provisions for the imposition of monetary penalties under this Act can be found.

### Clause 5: Regulations

30. This clause sets out the provisions that may be included in activity regulations made under clause 1(2). This clause also establishes the procedures for making regulations in the UK Parliament and in the Northern Ireland legislature.

### Clause 6: Interpretation

31. This clause sets out the definitions for terms commonly used throughout this Act.

### Clause 7: Extent, commencement and short title

32. Subsection (1) establishes which parts of the UK this Act extends to. Subsection (2) sets out when and how this Bill comes into force.
33. Subsection (3) provides the short title of this Act.

## Schedule: Monetary penalties

### Enforcement authority

34. Paragraph 1 sets out the definition for “enforcement authority” to mean a local weights and measures authority in England, or the Department for the Economy in Northern Ireland.

### Imposition of monetary penalties

35. Paragraph 2 establishes that an authority may impose a monetary penalty on a person when they are satisfied beyond reasonable doubt that the person has committed an offence under section 1 or 2 in the authority’s area. A definition is given for “monetary penalty” as used in this Schedule.

### Notices and representations

36. Paragraph 3 states that for an enforcement authority to impose a monetary penalty on a person, the authority must give the person an initial penalty notice. The initial penalty notice must give the person the opportunity to avoid liability of the monetary penalty by paying a specified sum. The person may object in writing within 28 days, beginning with the day on which the initial penalty notice is given. After the 28 day period the enforcement authority must decide whether to issue a final penalty notice. The possible amount of the penalty is set out in this paragraph. An initial or final penalty notice can be withdrawn at any time by the enforcement authority.

### Information to be included in notices under paragraph 3

37. Paragraph 4 sets out the information that the initial and final penalty notice must include.

### Monetary penalties: criminal proceedings

38. Paragraph 5 sets out that where an initial penalty notice is given to a person, no criminal proceedings for that offence may be brought against that person before the end of the period within which they can avoid liability. It also states that when a person has received a final penalty notice, the person cannot be convicted of the relevant offence in respect of the act or omission to which the notice relates. The definition of “relevant offence” is explained.

### Appeals

39. Paragraph 6 allows a person, to whom a final penalty notice has been given, to appeal against the decision. The grounds on which an appeal can be lodged are listed, as well as the tribunal or court to which the appeal must be lodged to. The decisions which a tribunal or court can make on the appeal are stated. Where an appeal is made, the requirement to pay the monetary penalty is suspended pending the outcome of the appeal. No other interest or penalty is payable during the period that the requirement to pay the monetary penalty is suspended.

### Use of proceeds

40. Paragraph 7 provides that sums received by an enforcement authority from monetary penalties imposed under this Schedule must be paid into the relevant Fund. Costs that can be deducted before the sums are paid into the relevant funds are listed. The relevant funds for England and Northern Ireland are listed.

### Enforcement

41. Paragraph 8 allows a local weights and measures authority in England and the Department for the Economy in Northern Ireland to recover the penalty - or part of the penalty - through a relevant court where any part of the penalty which is payable is not paid.

## Commencement

42. All Clauses will come into force two months following Royal Assent.

## Financial implications of the Bill

43. The Bill is expected to have a minimal impact on costs to the public sector. Annual public sector expenditure, which will mainly relate to enforcement, is estimated to be less than £500,000 a year.

## Parliamentary approval for financial costs or for charges imposed

44. The Bill did not require a money resolution. The Bill required a ways and means resolution as the Bill provides for the payment of sums received pursuant to monetary penalties into the Consolidated Fund.

## Compatibility with the European Convention on Human Right

45. As this is a Private Member's Bill, the Secretary of State is not required to make a statement under section 19(1)(a) of the Human Rights Act 1998. However, the government has examined the compatibility of the provisions of the Bill with the European Convention on Human Rights and considers that the provisions of the Bill are compatible with the Convention rights.

## Related documents

46. The following documents are relevant to the Bill and can be read at the stated locations:

- Our Action Plan for Animal Welfare, Department of Environment, Food and Rural Affairs, 12 May 2021: <https://www.gov.uk/government/publications/action-plan-for-animal-welfare>



## Annex A – Territorial extent and application in the United Kingdom

47. The Bill extends to England and Wales and Northern Ireland.
48. There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislature concerned.
49. To the extent that the subject matter of the Bill falls within the legislative competence of the Scottish Parliament, Senedd Cymru and Northern Ireland Assembly, the legislative consent procedure would be appropriate.

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clauses 1 and 2: Low-welfare animal activities	Yes	No	No	No	No	Yes	Yes
Clauses 3 and 4: Enforcement	Yes	No	No	No	No	Yes	Yes
Clause 5 to 7: General	Yes	No	No	No	No	Yes	Yes

## Subject matter and legislative competence of devolved legislatures

50. In the opinion of His Majesty’s Government, the subject matters of provisions relating to low-welfare animal experiences are within the devolved competence of the Northern Ireland Assembly because they do not relate to excepted matters under Schedule 2 or reserved matters under Schedule 3, of the Northern Ireland Act 1998.

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